

REPORT - PLANNING COMMISSION MEETING
July 24, 2003

Project Name and Number: Warm Springs PD Minor and Grading (PLN2003-00279)

Applicant: Mark Robson, Santa Clara Development Co.

Proposal: To consider a Planned District Minor Amendment to modify the location and type of paving provided and to consider a Preliminary Grading Plan to allow the stockpile of material for onsite construction purposes for the previously approved 194-unit Warm Springs Planned District (P-2002-76) in the Warm Springs Planning Area.

Recommended Action: Approve, based on findings and subject to conditions.

Location: 49055 Warm Springs Boulevard, Warm Springs Planning Area

Assessor Parcel Number(s): 519-1010-013-03

Area: 15.61 acres

Owner: Mark Robson, Santa Clara Development Co.

Agent of Applicant: N/A

Consultant(s): John Wong, SWA Group
Don Banta, Donald E. Banta & Associates (Geotechnical Engineer)
Greg Jaeger, Civil Engineering Associates

Environmental Review: This project complies with the previously approved Mitigated Negative Declaration (PLN2000-00324).

Existing General Plan: Medium-Density Residential (11 – 15 dwelling units per acre) and Gateway

Existing Zoning: P-2002-76, Residential Planned District

Existing Land Use: Vacant

Public Hearing Notice: Public hearing notification is applicable. A total of 37 notices were mailed to owners and occupants of property within 300 feet of the site within Fremont. The adjacent Milpitas residents (within 300 feet of the project) have also been included in public hearing notifications for the proposed project. The notices to owners and occupants were mailed on July 14, 2003. A Public Hearing Notice was delivered to The Argus on July 9, 2003 to be published by July 14, 2003.

Background and Previous Actions: On March 27, 2001, the City Council approved a General Plan Amendment to change the project site from an industrial land use designation to medium-density residential (11 – 15 dwelling units per acre). On September 10, 2002, the City Council approved the specific site plan and Planned District Rezoning (P-2002-76) for the project, which included 194 condominium and townhouse style units, 7.88 acres of open space, 508 total parking spaces, and associated circulation areas. On January 9, 2003, the Planning Commission approved Tentative Map 7409, a Private Street, and a revised Preliminary Grading Plan (PLN2003-00074).

Project Description: The applicant is requesting two actions by the Planning Commission; approval of a Planned District Minor Amendment (PD Minor) to allow the modification of the location and type of paving provided on site, and approval of a new Preliminary Grading Plan to allow the stockpile of import material (dirt) on site prior to and during construction of the project.

The PD Minor is being requested for the reasons specified in the enclosed applicant's justification letter. The applicant has specific resources available to provide for project paving, and believes that the current proposal is more appropriate than that previously approved (and conditioned). Generally, additional modular paving is being proposed at project entrances, at intersections between pedestrian and vehicular paths, and at intersections between paths. Conversely, the originally approved paving layout, which was conditioned by staff during the Planned District process, would have contained more modular paving at the paseo system but less at the other areas. Staff referred this item to the Planning Commission for review and approval because the previous project report (enclosed) upon which the Planning Commission acted specifically discussed the location and amount of modular paving.

The Grading Plan is being proposed to allow a relatively large amount of material stockpile onsite both before and during construction. This will primarily reduce costs and accelerate the construction schedule for the applicant. Even though the stockpiling will not remain after project buildout, staff is providing the documents and information to the Planning Commission for review and approval because no such proposal had been made for the project initially, and because the Fremont Municipal Code requires that the Planning Commission act on grading plans of 1,000 cubic yards or greater (FMC Section 8-4108(a)(1)).

Project Analysis:

- **General Plan Conformance:** The existing General Plan land use designation for the project site is Medium Density Residential, 11-15 units per acre. The proposed modifications to the amount, location, and type of paving and the proposed stockpile of material during construction do not affect the overall conformance of the project with the General Plan. The project continues to be consistent with the General Plan land use designation and applicable goals and policies.

Planned District Minor Amendment Analysis:

- **Open Space/Landscaping:** As previously noted, the applicant has indicated that specific resources are available for project paving, and believes that the current proposal is more appropriate than that previously approved (and conditioned). Generally, additional modular paving is being proposed at project entrances, at intersections between pedestrian and vehicular paths, and at intersections between paths and sidewalks. Conversely, the originally approved paving layout, which was conditioned by staff during the Planned District process, contained more modular paving at the paseo system and less elsewhere. Private patios would now be either colored or treated concrete rather than modular pavers. The ultimately desired effect is to create a hierarchy of public and private paving systems and features, ranging from asphalt paving at the drive aisles to standard paving at the path system to special finish concrete at the private patios. Modular pavers would be provided at key locations including site entrances, intersections of paths and of paths with drive aisles, etc. Staff is therefore recommending that the previous condition of approval be modified as follows (see Exhibit "N"):

D-5 ~~All areas on Exhibit "B" that show a special paving pattern, including patios, street crosswalks and other circulation areas, shall be brick or other modular paving. These areas will not have stamped colored concrete. Paving along paseos and at the circular elements of the central paving area shall also be brick or other modular paving, subject to staff review and approval during the DO process, and the paseo width shall generally not be reduced from that shown on approved plans.~~

Site paving shall be provided as follows:

- a. Modular paving shall be provided at the locations as shown on Exhibit "K".
- b. Streets may be asphalt.
- c. The EVA may be asphalt, but must be bounded by a minimum of six inches of concrete at all locations.

- d. Sidewalks and paseos may be standard concrete.
- e. All exterior patios at the 'Park Homes' and 'Tri-Plex' units shall be either special finish (e.g. salt finish or similar) or colored concrete, subject to staff review and approval.

The originally approved Planned District showed colored and scored concrete at the EVA at the north of the central open space. The originally approved condition required that this be modular pavers. Staff believes that colored concrete (or modular pavers) would have been a more visually attractive treatment, especially given the EVA's proximity to the central park area and its potential for alternative, recreation-type uses. Concrete would also be more durable than asphalt, which is the reason the City now uses concrete rather than asphalt for public parks.

As noted in the applicant's justification statement (enclosed), they are proposing asphalt at this location. Conditions have been added that this asphalt be bounded by concrete (subsection (c) above) to prevent the edges from deteriorating. Staff is asking that the Planning Commission indicate whether or not this EVA should be colored concrete as part of any project approval. If the Planning Commission indicates that the EVA should be concrete, subsection (c) will be modified as follows:

- c. *The EVA shall be colored concrete, subject to staff review and approval.*

Preliminary Grading Plan Analysis:

- **Circulation/Access Analysis:** Access to the project site is from Warm Springs Boulevard, a major four-lane thoroughfare. Ingress and egress for the project is through an existing gated access at the southeastern corner along Warm Springs Boulevard. The developer will provide a stabilized construction entrance between the gate and Warm Springs Boulevard to help prevent mud and other debris from vehicle tires from being tracked into the public right-of-way during construction.

Access to the site shall be limited to this gated entrance. Any additional point or points of ingress or egress shall be subject to review and approval of the City Engineer. Additionally, trucks entering or leaving the project shall not "stage" or wait within the public right-of-way.

- **Grading/Topography:** On January 9, 2003, Planning Commission approved a preliminary grading plan, along with a tentative tract map, for a planned 194-unit residential development. Typically grading for a subdivision does not begin until after the final map and subdivision improvement plans (including final grading plans) have been approved. In this case, the developer would like to get started, as soon as possible, prior to the approval of the final plans because several thousand cubic yards of import soil is needed. Approval of the current application and the subsequent issuance of a grading permit will allow the developer to start stockpiling import soil on the site in a roughly graded form now, as import material becomes available and prior to the start of the rainy season. Ultimately the site will be graded per the previously approved preliminary grading plan.

The project site is predominantly covered in tall grasses and shrubs. There is an existing building, fences, and pavement on site for which the applicant has received a permit to remove, but demolition has not begun. Concurrently with the permitted demolition work, the applicant proposes to clear and grub the site of the existing vegetation and topsoil, as recommended by the project geotechnical engineer. These "strippings" amount to an estimated 6,500 cubic yards, of which a 3,300 cubic yard stockpile is proposed in the middle of the project site. The strippings stockpile is proposed to be up to 5 feet deep. The remaining 3,200 cubic yards of strippings will be hauled off the project site.

Grading of the site consists of cuts of up to a maximum of 3 feet along the Warm Springs frontage. As grading proceeds west, cut changes to fill approximately 500 feet west of Warm Springs Boulevard. Filling occurs for another 800 feet west, with proposed fills of up to 5 feet at the strippings stockpile. The average proposed fill depth is approximately 2.5 feet. The amount of fill, particularly within the area designated by FEMA as the 100-year floodplain, may need to be revised in order to retain floodwater storage on site.

The project civil engineer has estimated grading quantities to be 6,500 cubic yards of strippings (of which 3,200 cubic yards will be exported), 11,848 cubic yards of cut and 23,511 cubic yards of fill, which means import of 11,663 cubic yards is proposed. The source and truck route of the import soil and the destination and truck route for the export strippings is subject to review and approval of the City Engineer.

The previously approved grading plan (PLN2003-00074), included estimated grading quantities of 31,000 cubic yards of cut and 80,000 cubic yards of fill, for a total of 111,000 cubic yards of grading. Overall the current application will bring grades to within 2 to 3 feet of the final pad elevations previously approved.

- **Drainage:** The project does not propose installation of any underground storm drain facilities as part of this grading plan. Runoff will sheet flow west across the project site towards the railroad tracks. Erosion controls will be installed to prevent soil, sediment, or other pollutants from being carried offsite in storm water runoff. Though no sediment basins are currently proposed, if deemed necessary during construction, sediment basins may be installed to help settle pollutants prior to storm runoff leaving the project site.
- **FEMA Flood Zone:** The western four hundred feet of the project site is located within the floodplain or a special flood hazard zone as defined by the Federal Emergency Management Agency (FEMA). In order to develop within the floodplain, all new structures will be built with the lowest floor at or above the base flood elevation. This project does not propose construction of any structures, though it does include grading within the floodplain. Prior to issuance of the grading permit, the applicant shall provide hydraulic calculations, including drainage maps, which demonstrate that the proposed changes within the 100-year floodplain do not increase the floodplain on the adjacent properties or increase peak flows within the public storm drain system. The project will be designed and reviewed for conformance with the City's Flood Damage Prevention Ordinance and the building standards of the National Flood Insurance Program.
- **Urban Runoff Clean Water Program:** The Federal Clean Water Act of 1972 and Water Quality Act (1987) require localities throughout the nation to obtain a National Pollutant Discharge Elimination System permit (NPDES) in order to discharge storm water into public waterways such as creeks, rivers, channels and bays. Adopted regulations require discharges of storm water associated with new development and construction to submit a Notice of Intent (NOI) to the State of California for activities disturbing more than one acre of land. The applicant has provided evidence that an NOI has been received and processed with the State Water Resources Control Board.

Environmental Analysis: A Mitigated Negative Declaration was adopted by the City Council on March 24, 2001 for this project under PLN2000-00324, and a finding is proposed that this project is consistent with that environmental document.

Response from Agencies and Organizations:

Enclosures: Exhibit "K" Preliminary Grading Plan
Exhibit "L" Revised Site Plan and Paving Details
Exhibit "M" Preliminary Grading Plan Findings and Conditions of Approval
Exhibit "N" Planned District Minor Amendment Conditions of Approval
Warm Springs Planned District Planning Commission Report – PLN2002-00076 (Informational)
Approved Site Plan for PLN2002-00076 (Informational)
Applicant's PD Minor Justification Statement (Informational)
Applicant's Grading Plan Justification Statement (Informational)

Exhibits: Exhibit "K" Preliminary Grading Plan
Exhibit "L" Revised Site Plan and Paving Details
Exhibit "M" Preliminary Grading Plan Findings and Conditions of Approval
Exhibit "N" Planned District Minor Amendment Conditions of Approval
Modular Paver Sample (Informational)
Approved Site Plan for PLN2002-00076 (Informational)

Recommended Actions:

1. Hold public hearing.
2. Find PLN2003-00279 is consistent with and complies with all portions of the previously approved Mitigated Negative Declaration (PLN2002-00076).
3. Find PLN2003-00279 is in conformance with the relevant provisions contained in the City's existing General Plan.
4. Find PLN2003-00279 fulfills the intent of the applicable requirements set forth in the Fremont Municipal Code.
5. Indicate whether the Emergency Vehicle Accessway (EVA) should be asphalt or colored concrete.
6. Approve PLN2003-00279, as shown on Exhibit "K" and Exhibit "L", subject to findings and conditions on Exhibit "M" and Exhibit "N".

EXHIBIT "M"
Findings and Conditions of Approval for
PLN2003-00279 – Preliminary Grading Plan
Warm Springs Planned District – Santa Clara Development

FINDINGS:

The findings below are made on the basis of information contained in the staff report and information from the public hearing to the Planning Commission dated July 24, 2003, incorporated herein by reference:

- (a) The proposed project described in the application will not have an appearance, due to the grading, excavation, or fill, substantially and negatively different from the existing natural appearance.
- (b) The proposed project described in the application will not result in geologic or topographic instability on or near the site. Based on geologic information available, the site is not in a special studies zone. There are no fault zones or evidence of slides on the site that might be aggravated by the grading of the development.
- (c) The proposed project described in the application will not endanger public sewers, storm drains, watercourses, streets, street improvements, or other property; will not interfere with existing drainage courses; and will not result in debris being deposited on any public way. The adequacy of the existing sewer, water and drainage facilities proposed for the project has been reviewed by the different utility agencies. The proposed development will not alter or obstruct the natural flow from abutting properties or divert drainage from its natural watershed. The applicant is required to submit a plan to control erosion and siltation during and after construction for review and approval by the City Engineer.
- (d) Conformity, where applicable, to special concerns relating to the adopted Seismic Safety Element and concerns shown on maps issued by the U.S. Geological Survey and the California Division of Mines and Geology shall be accomplished at time of final map. Supplemental data and substantiation of conclusions may be required by the public works director upon city review of the reports. The proposed development is not in any special studies zone nor is there evidence of presence of any fault or active slides per maps issued by the U.S. Geological Survey and the California Division of Mines and Geology.
- (e) The proposed project described in the application will not unacceptably affect the health, safety, and or welfare of adjacent residents or landowners, nor the citizens of Fremont.

PRELIMINARY GRADING PLAN CONDITIONS OF APPROVAL:

- 1. The project shall conform to Exhibit "K" (Preliminary Grading Plan), all conditions of approval set forth herein, and all conditions of approval of Planned District P-2002-76 (PLN2002-00076) and Tentative Map 7409, the Private Street, and the revised Preliminary Grading Plan previously approved (PLN2003-00074).
- 2. Approval of this Preliminary Grading Plan (PLN2003-00279), including the conditions stated herein, in no way alters or replaces Preliminary Grading Plan (PLN2003-0074) approved by Planning Commission on January 9, 2003.
- 3. Approval of this preliminary grading plan does not extend to the final detailed design approval necessary to be accomplished in connection with the development plans.
- 4. Approval of this preliminary grading plan shall terminate 24 months from the date of approval by the Planning Commission.

5. The developer shall obtain a final grading permit in accordance with the Grading, Erosion, and Sediment Control Ordinance (Chapter 4, Title VIII of the Municipal Code). Grading shall be subject to the approval of the City Engineer.
6. The applicant shall provide grading plans and hydraulic calculations, including drainage maps and inundation maps, demonstrating that the proposed grading complies with the Flood Damage Prevention Ordinance (Chapter 8, Title VIII of the Municipal Code). The plans and calculations shall demonstrate that the proposed grading with the 100-year floodplain does not increase the floodplain on the adjacent properties or increase peak flows within the public storm drain system. Changes to the proposed grades, including installation of storm water retention basins, especially within the 100-year floodplain, may be required prior to issuance of the grading permit.
7. Site grading shall not obstruct natural flow from abutting properties or divert drainage from its natural watershed.
8. The applicant shall provide for a functional system to control erosion and siltation during and after grading subject to review and approval by the City Engineer. An erosion and sediment control plan shall be included as part of the grading plans.
9. All cut and fill slopes shall be constructed to a maximum of three horizontal to one vertical (3:1).
10. A disposal site for the off-site haul dirt materials or source for the import fill shall be approved by the City prior to issuance of the grading permit. The truck route for off-haul or import material shall be subject to the approval of the City Engineer. During grading, the City Engineer shall approve any proposed changes to the disposal site for off-haul, source site for import fill, or the truck route.
11. The developer shall adhere to the recommendations in the Donald E. Banta & Associates Inc. report entitled "Final Geotechnical Investigation, 15-acre Residential Development, 49055 Warm Springs Boulevard, Fremont, California," dated September 27, 2002, and any additional or supplementary geotechnical recommendations.
12. The Project Geotechnical Engineer shall be retained to review the final grading plans and specifications. The Project Geotechnical Engineer shall approve the grading plans prior to City approval and issuance of the grading permit.
13. Ingress and egress from the project site shall be limited to one gated access on Warm Springs Boulevard. The developer is responsible for insuring that construction vehicles enter and exit through this gated access point. Installation or use of another access point is subject to review and approval of the City Engineer.
14. No construction vehicles shall stage and/or park within Warm Springs Boulevard or along Warm Springs Boulevard east of the existing chain link fence, unless a staging plan and traffic control plan are approved in writing by the City Engineer, prior to issuance of the grading permit. Construction vehicles include, but are not limited to cars, pickup trucks, haul trucks, dump trucks, water trucks, bulldozers, scrapers, front-end loaders, and compactors.
15. The following are relevant conditions of approval from Preliminary and Precise Planned District P-2002-76, are incorporated herein, and shall be complied with prior to issuance of the grading permit, subject to review and approval of the City Engineer:

A-10 All provisions of the previously adopted Mitigated Negative Declaration (PLN2000-00324) are incorporated into these conditions of approval. These conditions include:

5. *The applicant will be required to have a professional wildlife biologist conduct a burrowing owl survey of the project site for biological resources of significance at the site planning and architectural review stage, or 30 days prior to grading.*
6. *If the protocol survey is completed no more than 30 days prior to grading/ground disturbance activity, no further surveying will be required. Otherwise, a separate pre-construction survey for burrowing owls is required no more than 30 days prior to any grading or ground disturbance to determine the presence of owls. The survey results shall be approved by the Assistant City Manager.*
7. *Any mitigation identified in the due diligence reports shall be implemented. All mitigation measures identified in the current Phase I and Phase II ESAs shall be implemented to reduce potential impacts to a level of insignificance.*
8. *Best Management Practices elements shall be incorporated into the site design to mitigate storm water, drainage, and water quality impacts for the project site.*

17. *Construction activities shall be limited to the following hours of operation:*

- *7 a.m. to 7 p.m. Monday through Friday*
- *9 a.m. to 6 p.m. Saturday*
- *No construction on Sunday*

Further, particularly loud noises shall not occur before 8 a.m. on weekdays and not at all on weekends. The hours of construction may be modified by the Assistant City Manager upon a determination that unusually loud construction activities are having a significant impact on the neighbors. Failure to comply with the above-described hours of operation may result in withholding of inspections and possible construction prohibitions, subject to the review and approval of the Planning Commission. A sign shall be posted on-site with the hours of operation and a telephone number of the person to be contacted in the event of any violations. The details of such a sign shall be approved by staff during the Development Organization review process.

18. *A rodent control and weed abatement plan designed to mitigate rodent and weed intrusion (during each phase of development) into existing adjacent residential areas shall be developed by the applicant for staff review and approval during the Development Organization review process.*

F-2 *Should any human remains or historical or unique archaeological resources be discovered during site development work, the provisions of CEQA Guidelines, Section 15064.5 (e) and (f) will be followed.*

16. The following are relevant conditions of approval from Tentative Tract Map 7409 (PLN2003-00074), are incorporated herein, and shall be complied with prior to issuance of the grading permit, subject to review and approval of the City Engineer:

9. *The applicant shall provide required fire flow (hydrants) on site prior to construction or storage of combustible materials. Fire hydrant jumper lines must be at least 6 inches in diameter. This must be completed and inspected before any construction or material storage will be allowed. (UFC 903.2 & Appendix IIIA).*
15. *The project plans shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff. The plans will also include storm water measures for operation and maintenance of the project.*

16. *The developer is responsible for ensuring that all contractors and subcontractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction Best Management Practices will result in the issuance of correction notices, citations, or stop orders.*

EXHIBIT "N"
Findings and Conditions of Approval for
PLN2003-00279 (Planned District Minor Amendment)
Warm Springs Planned District – Santa Clara Development

CONDITIONS

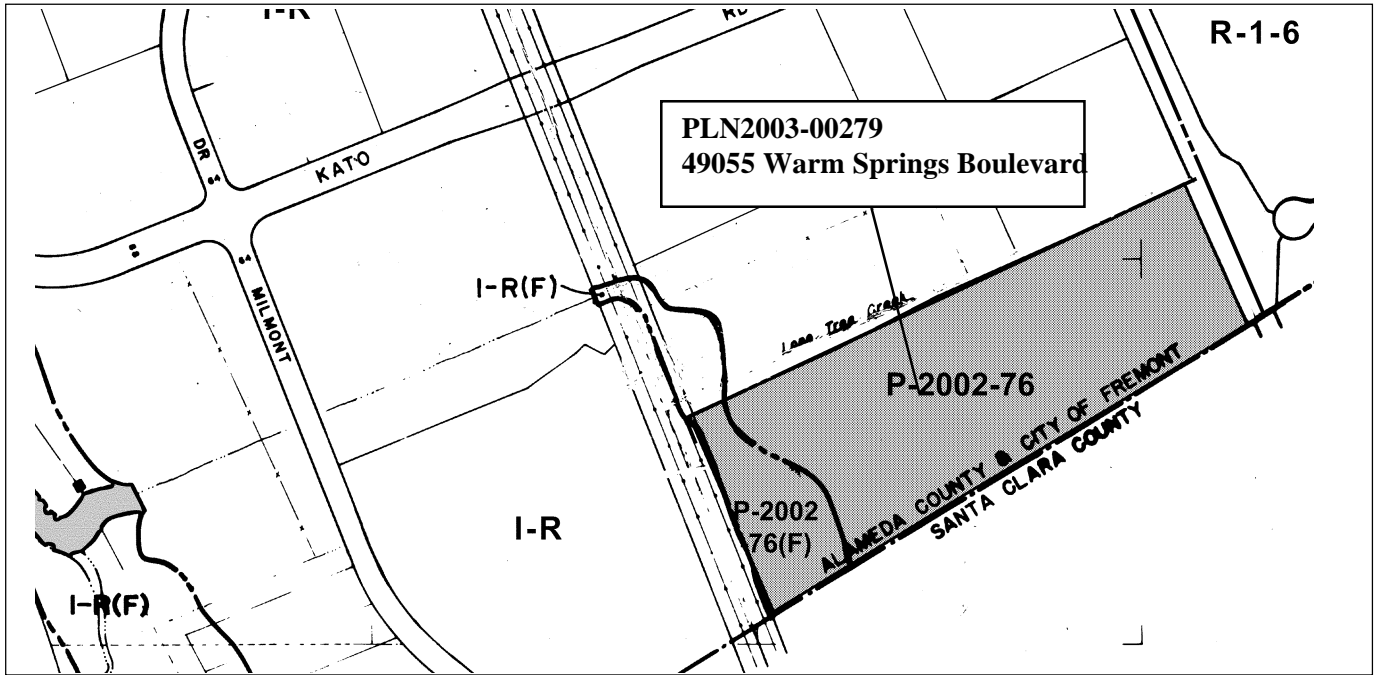
Previous condition of approval D-5 of PLN2002-00076 is modified as follows:

D-5 ~~All areas on Exhibit "B" that show a special paving pattern, including patios, street crosswalks and other circulation areas, shall be brick or other modular paving. These areas will not have stamped colored concrete. Paving along paseos and at the circular elements of the central paving area shall also be brick or other modular paving, subject to staff review and approval during the DO process, and the paseo width shall generally not be reduced from that shown on approved plans.~~

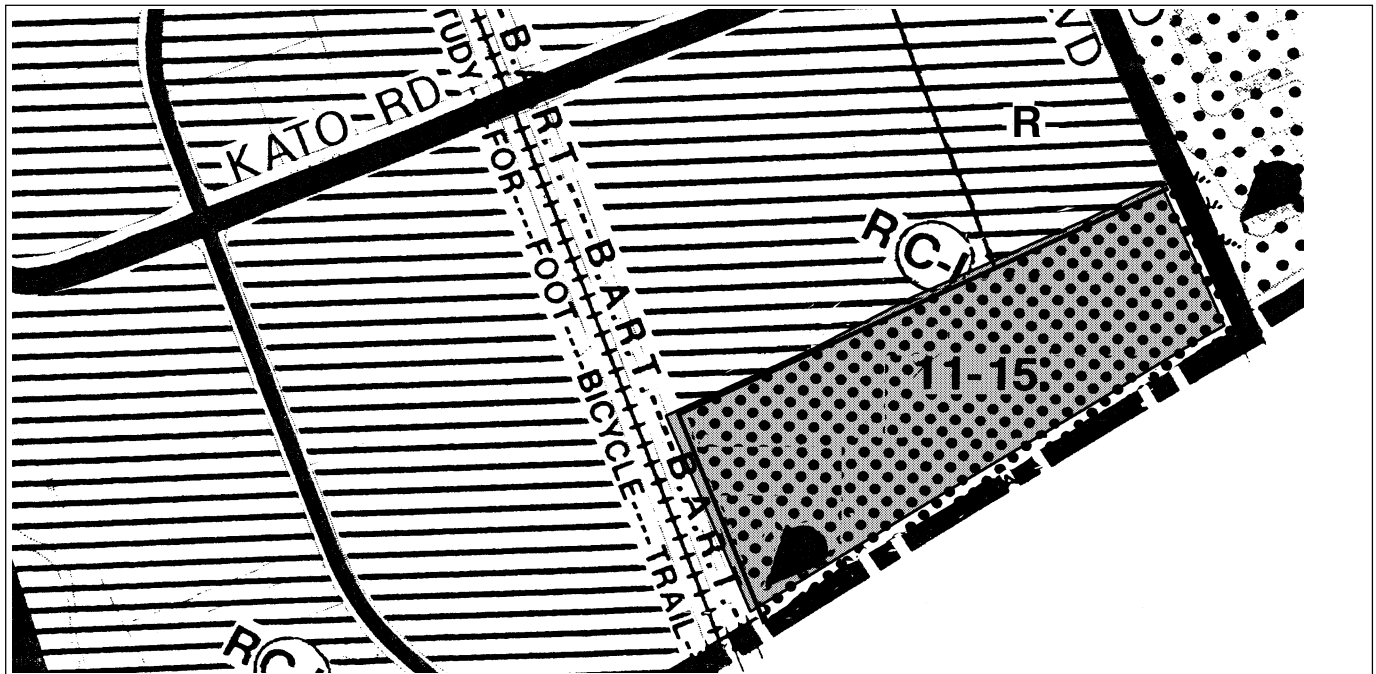
Site paving shall be provided as follows:

- a. Modular paving shall be provided at the locations as shown on Exhibit "K".
- b. Streets may be asphalt.
- c. The EVA may be asphalt, but must be bounded by a minimum of six inches of concrete at all locations.
- d. Sidewalks and paseos may be standard concrete.
- e. All exterior patios at the 'Park Homes' and 'Tri-Plex' units shall be either special finish (e.g. salt finish or similar) or colored concrete, subject to staff review and approval.

INFORMATIONAL



Existing Zoning



Existing General Plan

Project Number:

PLN2003-00279 (PD Minor)

Project Name:

Warm Springs PD Minor and Grading

Project Description:

To consider a Planned District Minor Amendment to modify the location and type of paving provided and to consider a Preliminary Grading Plan to allow the stockpile of material for onsite construction purposes for the previously approved 194-unit Warm Springs Planned District (P-2002-00076) in the Warm Springs Planning Area.

Note: Prior arrangements for access are not required for this site.

